IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Heera Lal. Versus State of Rajasthan.

S.B. Criminal Revision Petition No. 777/2006 against the order dated 4-8-2006 passed by the Addl. Chief Judicial Magistrate, Kapasan, district Chittorgarh, in FIR Case No.99/2006, Police Station, Akola.

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Date of Order: October 27, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Ramesh Purohit, for the petitioner.
Mr. Vishnu Kacchwaha, Public Prosecutor for the State.

BY THE COURT:

By this criminal revision petition under Section 397 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has assailed the order dated 4.8.2006 passed by the Additional Chief Judicial Magistrate, Kapasan, district Chittorgarh (for short, "the trial Court" hereinafter) in FIR Case No. 99/2006, whereby the trial Court dismissed the application filed by the petitioner under Section 451/457 of the Code.

Succinctly stated, the facts of the case are that a tanker bearing registration No.RJ.27-G-5735 was seized from the godown of the petitioner containing 4000 litres of solvent

and a case under Section 3/7 of the Essential Commodities Act was registered against him. The petitioner moved an application under Section 451/457 of the Code for releasing the said tanker on Supurdginama as it was required by him for business purposes. The learned trial Court, vide impugned order dated 4.8.2006 declined to release the tanker in favour of the petitioner and dismissed the application.

It is contended by the learned counsel for the petitioner that he is the registered dealer in petroleum products and having RST and CST registration number in his favour. His further contention is that no useful purpose would be served in keeping the tanker lying under open sky at the police station and in case the tanker is not released on Supurdginama, it will expose to the Sun, air, dust etc. and a serious loss would be caused to it. The learned Public Prosecutor has seriously opposed the application.

In Sunderbhai Ambalal Desai Vs. State of Gujarat, AIR 2003 SC 638, relying on the decision in Basavva Kom Dyamangouda Patil Vs. State of Mysore, (1977) 4 SCC 358, the Hon'ble Supreme Court held as under:-

> "It is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of application for return of such vehicles."

In the instant case, except the petitioner, who is the registered owner of the tanker, no other person has come forward claiming the interim custody of the tanker. The tanker is lying at the police station. No useful purpose would be served in keeping the tanker lying under open sky at the police station, where the chances of its exposing to air, heat, dust etc. cannot be ruled out. In this view of the matter, in my view, the ends of justice would be met in releasing the tanker on Supurdginama in favour of the petitioner.

Consequently, the criminal revision is allowed; the impugned order dated 4-8-2006 passed by the trial Court is set aside and it is directed that the tanker No.RJ.27-G-5735 be released on Supurdginama in favour of the petitioner on his furnishing a personal bond in the sum of Rs.5,00,000/- (Rs. Five lac) along with one surety in the like amount to the satisfaction of the trial Court on the terms and conditions which the trial Court deems it just and proper to impose.

(H.R. PANWAR), J.

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